

OFFICIAL GAZETTE

GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Department of Labour

Order

No. CL/Pub-Awards/98/9696

The following Award dated 1-7-1998 in reference No. IT/81/97 given by the Industrial Tribunal Panaji-Goa, is hereby published as required under the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.
R. S. Mardolker, Ex-Officio Joint Secretary (Labour).
Panaji, 15th July, 1998.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/81/97

Workmen,
Rep. by the President,
Z. A. C. L. Workers Union,
Zuarinagar Goa.

— Workmen/Party I

V/s

M/s Zuari Agro Chemicals Ltd.,
Zuarinagar Goa.

— Employer/Party II

Dated: 1-7-1998.

Adv. Shri C. V. Singh with Adv. D. P. Bhise present for
Party I

Adv. Shri P. K. Relye with Adv. G. K. Sardesai present for
Party II

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Government of Goa by order No. IRM/CON/SG/(53)/97/6275 dated 9-12-1997 referred the following dispute for adjudication to this Tribunal.

- (A) 1. "Whether the following demands of Zuari Agro Chemicals Limited Workers' Union served by them on the management of M/s Zuari Agro Chemicals Limited Zuarinagar, vide their letter No. ZACL/WU/PM dated 14-12-95 on behalf of the workmen represented by the said Union are legal and justified ?
2. If not, to what relief the workmen are entitled ?
- (B) 1. In view of the fact that Zuari Agro Chemicals Limited Employees Union signed a settlement under section 2(p) of the I. D. Act, 1947 (Central Act 14 of 1947) on 5-11-97 whether the demands of the Z. A. C. L. Workers Union for signing a separate settlement by the management under section 2(p) of the I. D. Act, 1947 (Central Act 14 of 1947) with their Union, is legal and justified ?
2. If not, to what relief the workmen are entitled?"

2. On receipt of the reference, a case was registered under No. IT/81/97 and registered A/D notice issued to the parties who were duly served with the said notice. The Union/Party I (For short "Union") filed an application dated 6-3-98 at Exb. 4. In the said application, the Union stated that after expiry of the previous settlement dated 24-6-94, the members of Zuari Agro Chemicals Limited Workers Union were compelled to accept the terms of the settlement dated 5-11-97 entered into between the employer/Party II (For short "Employer") and Zuari Agro Chemicals Limited Employees Union, notwithstanding the fact that the benefits accepted by the members are far less than the demands raised in the charter of demands dated 14-12-95. The Union prayed that the award be passed in terms of the settlement dated 5-11-97 and in the

alternative, the union prayed that an Award Part-I be passed in terms of the benefits of the settlement and thereafter proceed with the reference on merits and then pass award Part II. The employer filed reply to the said application which is at Exb. 5. The employer admitted that the settlement was signed on 5-11-97 with Zuari Agro Chemical Employees Union covering all the employees of the Employer/Company since it had numerically more members in the establishment. The employer stated that the said terms provide the clause for extension of benefits and all other terms and conditions contained therein to all employees, subject to their giving the declaration in the prescribed manner. The employer stated that the union refused to accept the terms of the settlement dated 5-11-97 and pursued with the dispute before the Dy. Labour Commissioner, Margao, and the conciliation proceedings having ended in failure, the Government referred the said dispute for adjudication by the Industrial Tribunal by letter dated 9-12-97. The employer stated that all the members of Zuari Agro Chemicals Limited Workers Union i.e. the Union in the present case accepted all the terms of settlement and signed a declaration as stipulated therein without any condition. The employer denied that the members of the union were compelled to accept the terms of the settlement dated 5-11-97. The employer stated that in view of acceptance of the settlement by all the members of the Union as well as all the employees in the company, the dispute does not survive. The employer therefore prayed that a no dispute award be passed.

3. At the time when arguments were being heard on the application dated 6-3-98 Exb. 4, Adv. Shri P. K. Relye, the learned counsel for the employer submitted that the employer has no objection for passing the award in terms of the settlement dated 5-11-97 entered into between the employer and Zuari Agro Chemicals Limited Employees Union as prayed for by the Union. He submitted that after the award is passed in terms of the settlement, the entire reference would stand disposed off. Adv. Shri C. V. Singh, the learned counsel for the Union agreed with the submission of Adv. Relye. He submitted that the union is agreeable to the passing of the award in terms of the settlement dated 5-11-1997 and the Union is not pressing for any other reliefs. He therefore, prayed that the award be passed in terms of the settlement dated 5-11-97. It is an admitted fact that the members of the Union i.e. the Zuari Agro Chemicals Workers' Union have accepted the terms of the settlement dated 5-11-97. In the circumstances, I accept the submissions made by the parties and pass the award in terms of the settlement dated 5-11-1997.

Order

1.0 TERMS OF SETTLEMENT

1.1 This settlement made this day of November 1997 between the Management of Zuari Agro Chemicals Limited, Zuarinagar, Goa (hereinafter referred to as the Management) and their workmen employed at Company's establishments in Goa, Offices at Delhi, Bombay and the Regional Offices, witnesseth and it is hereby between the parties hereto as follows :

1.1.1 In the interest of Industrial peace and good relations and without prejudice to the

various contentions, the employees and the Management hereby agree to -

- 1.1.2 enter into and abide by this settlement for the period stipulated i.e. 1-1-96 to 31-12-98.
- 1.1.3 accept the terms and conditions of this settlement in full and final settlement of all demands raised by ZACL Employees' Union vide letter dated 22-11-1996, and by ZACL Workers' Union vide their letter ZACL/WU/PM dated 14-12-1995 and all other disputes including those in conciliation or under bipartite/tripartite discussions.
- 1.1.4 co-operate in creating a climate of healthy industrial relation and to maintain industrial discipline, improving efficiency, working environments and productivity, encouraging performance of a fair day's work by employees and discouraging absenteeism.
- 1.1.5 make earnest efforts to resolve through mutual discussion and constitutional means any differences and/or disputes that may arise and
- 1.1.6 give each other 14 days' clear notice of their intention before commencing strike/lock-out as the case may be.
- 1.1.7 Either party will not resort to this extreme step until all efforts have been made to reach a settlement through the process of collective bargaining.

2.0 Employees and the Union undertake-

- 2.1 not to raise or pursue during the operative and binding period of this settlement, any demand involving any increase of additional financial burden on the company except for Bonus for the concerned year which shall be paid as the Payment of Bonus Act, 1965.
- 2.2 not to take part in Union activities during working hours except as permitted by the Management.
- 2.3 to sustain and improve working efficiency, ensure smooth and uninterrupted production.
- 2.4 to increase individual and overall productivity of all employees.

3.0 Revision in terms of service

3.1 Salary Scales

- 3.1.1 Effective from 1-1-1996, the revised salary grades and corresponding scales will be as under:

Existing Grades	Revised Grades
U-1 & U-2	G-1 Rs. 2000-45-3350
U-3 & U-4	G-2 Rs. 2150-55-3800
U-5 & U-6	G-3 Rs. 2300-60-4100
U-7	G-4 Rs. 2450-65-4400
U-8	G-5 Rs. 2575-75-4825
U-9	G-6 Rs. 2700-90-5400
U-10	G-7 Rs. 2970-105-6120
U-11	G-8 Rs. 3495-140-7695
U-12	G-9 Rs. 4000-170-9100

3.1.2 Employees whose salaries reach the maximum of the applicable scale during the period of the settlement, will be paid an amount equivalent to the last increment drawn, as personal pay, effective from the date such increment becomes due.

3.2.0 Special Salary Adjustment

3.2.1 Effective 1.1.96, salaries of employees on the payroll of the Company on 31-12-95 will be fitted in the corresponding revised salary scales as per paragraph 3.1.1 above.

3.2.2 The Personal Pay, if any, paid to the employees as on 31-12-95, will be merged in the existing basic salary. An amount equivalent to 15% of the sum thus arrived at (minimum Rs. 70/-) will be added to it as Special Salary adjustment.

3.2.3 The following amounts being service weightage, depending on the number of completed years of service as on 31/12/95, shall be added to the amount arrived at in paragraph 3.2.2. above.

Below 5 years	— Nil
5 years & above but below 10 years.	— Rs. 125/-
10 years & above but below 15 years.	— Rs. 150/-
15 years & above but below 20 years	— Rs. 175/-
20 years and above	— Rs. 200/-

3.2.4. Thereafter, an amount of Rs. 1313/- due to merger of 625 points of VDA@ Rs. 2.10, per point and Fixed Dearness Allowance of Rs. 740/- will be added to the amounts arrived at paragraph 3.2.3.

3.2.5 The amount thus arrived at shall constitute revised basic salary which will be fitted at appropriate step or the immediate lower step as the case may be in the revised scale of the equivalent grade. Residual amount, if any due to this fitment will be considered as Personal Pay.

3.2.6 Employees who have joined on 1-1-96 or thereafter, will not receive special salary adjustment of 15% as at paragraph 3.2.3 above but will be fitted in the revised grades as per Clause 3.2.5 after merger of FDA & VDA as stipulated in Clause 3.2.4.

4.0 Personal Pay

4.1 Personal pay being the residual amount after fitment as indicated in Clause 3.2.5 will be considered as basic salary for purposes of payment of allowances and benefits related to basic salary such as Houses Rent Allowance, Shift Allowance, Provident Fund, Bonus, Gratuity, overtime etc.

5.0 Dearness Allowance

5.1 The Union demanded revision in the existing Variable Dearness Allowance formula, changing over from single rate of neutralisation based on all India Consumer Price Index as at present to a system having double linkage viz. as percentage to basic as well as neutralisation based on rise in the price. Management explained difficulties in agreeing to the Union's demand considering the implications of formula having double linkage.

5.2 The Union agreed that Management may evolve a procedure by providing a cap to ensure per point neutralisation within the overall average limit of Rs. 2.75 per point. Since Union accepted this procedure, it was agreed to revise the Variable Dearness Allowance formula as under:

5.2.1 Variable Dearness Allowance

Effective 1/1/96 Variable Dearness Allowance will be computed and paid as follows:

For every point rise or fall in AICPI (1960=100) over 1200 points a payment of an amount in rupees equivalent to —

- 0.00083 per rupee for the first Rs. 2,500/- or part thereof of basic salary plus PP (if any).
- 0.0004 per rupee for the second Rs. 1000/- or part thereof of basic salary plus PP (if any).
- 0.0003 per rupee for the third Rs. 1000/- or part thereof of basic salary plus PP (if any).
- 0.0002 per rupee for the fourth Rs. 1000/- or part thereof of basic salary plus PP (if any).
- 0.0001 per rupee for balance up to a maximum basic salary of Rs. 7,000/- plus PP (if any).

The existing practice of calculating VDA for each month based on AICPI for the month preceding two months will continue.

5.2.2 Fixed Dearness Allowance

The existing system of payment of fixed dearness allowance will be discontinued consequent upon its merger in the basic salary as per paragraph 3.2.4 above.

6.0 House Rent Allowance

6.1 Effective 1/1/1996, house rent allowance will be paid at 30% of basic salary, personal pay and variable dearness allowance, regardless of whether the employee resides in rental house/ apartment, own house/apartment or house/ apartment purchased or constructed with company loan. Employees residing in quarters/ accommodation allotted by the company will not be eligible for House Rent Allowance.

6.2 If both Company employee and spouse are employed by the Company regardless of

whether or not either is covered by this settlement, only one of them will be eligible to applicable house rent allowance except that, in the event such employee and spouse are staying in a rented house and if the rent paid exceeds the quantum of single HRA entitlement, they will be eligible to additional payment of HRA equal to the excess rent over HRA, subject to a maximum amount which together with the HRA entitlement will not be more than 30% of their basic salary plus personal pay plus variable dearness allowances taken together.

- 6.3 House rent recovery, and charges for electricity and water for employees residing in Company quarters at Zuarinagar Township will continue to be deducted as per present practice.

7.0 Gardening Allowance

- 7.1 Effective 1/1/96, gardening allowance to all employees residing in Company quarters will be revised to Rs. 400/- per month.
- 7.2 All other employees including employees allotted Hostel accommodation will be paid Rs. 275/- per month as gardening allowance.

8.0 Personal Allowance

- 8.1 Effective 1/1/96, personal allowance will be revised as under:

- a) Motorcycle/Scooter — Rs. 900/- p. m.
b) Moped — Rs. 750/- p. m.

- 8.2 All other terms and conditions for payment of these allowances shall continue unaltered.

9.0 Transport Allowance

- 9.1 Effective 1/1/96, employees not receiving personal allowance will be paid transport allowance @ Rs. 500/- per month.
- 9.2 Transport allowance will not be paid for the days employee is away from duty with or without pay for a continuous period of 14 days or more.

10.0 Educational Allowance

- 10.1 Effective 1/1/1996, all employees will be paid an Educational Allowance of Rs. 200/- per month.

11.0 Site Allowance

- 11.1 Effective 1/1/96, all employees will be paid Rs. 350/- per month as Site Allowance.

12.0 Factory Allowance

- 12.1 Factory Allowance paid to certain categories of employees remains unaltered.

13.0 Soap & Towel Allowance

- 13.1 Soap & Towel Allowance paid to certain categories of employees remains unaltered.

14.0 Washing Allowance

- 14.1 Employees will be paid Washing Allowance @ Rs. 220/- per month.

15.0 Shift Allowance

- 15.1 Employees in shifts will be paid shift allowance @ 10% of basic salary, personal pay and dearness allowance per shift for work on the followings shifts:

6.00 hrs. to 14.00 hrs., 14.00 to 22.00 hrs.
22.00 hrs. to 6.00 hrs., 16.00 hrs. to 24.00 hrs.
00.00 hrs. to 8.00 hrs.

- 15.2 Shift allowance will also be paid for work in the 8.00 hrs. to 16.00 hrs. shift provided the employee is rotated periodically to other shifts. Employees on day shift or who are not periodically rotated in shifts will not be paid Shift Allowance.

16.0 Cash Handling Allowance

- 16.1 Effective 1/1/96, a cash handling allowance of Rs. 10/- per day worked will be paid to employees disbursing cash at Treasury Counter or designated locations, at Zuarinagar.

17.0 Overtime Allowance

- 17.1 The divisor for overtime at single rate for all employees will be 176 (22 x 8).

17.21 Overtime beyond normal working hours.

- (a) Employees working beyond 8 working hours on any working day will be paid overtime at double the rate of wages (basic+PP+DA) for the extra hours worked.
- (b) Employees required to work continuously for more than 16 hours after normal hours of work will be paid overtime allowance at double the rate of wages for the extra hours worked and given a compensatory day off on the following day. If the following day is a weekly off day/holiday, compensatory off for the loss of holiday weekly off will be given.
- (c) Employees called to work between 22 hours and 06 hours will be paid minimum of 4 hours overtime irrespective of hours worked.

17.2.2 Overtime for work on weekly off.

Employees working on first or second weekly off will be paid Overtime at double rate and no compensatory off or overtime at single rate plus compensatory off provided they work full shift. For minimum half shift worked employee may opt for full day compensatory off without overtime payment.

17.4.3 Overtime on company declared holiday.

- (a) Employees required to work on company declared holiday will be paid overtime at double the rate of wages without compensatory off or overtime at single rate plus a compensatory off provided they work full shift. For a half shift worked employees may opt for full day compensatory off without overtime payment.
- (b) Employees called to work on company declared holiday which falls on first day or second day of their weekly off day will be paid overtime at double the rate and a compensatory off.
- (c) Employees working on company declared holiday on overtime or on their scheduled shift will be paid additionally Rs. 150/- for full shift worked or Rs. 75/- for minimum half shift worked. However, this additional amount will be restricted to only one shift even though the employee may be required to work for more than one shift.
- (d) For company declared holiday falling on off day provided employees are not required to work, employees will be compensated for loss of holiday by payment of one day's wages at single rate (monthly wage divided by 22 days) or a compensatory off day, to be availed with prior approval.
- (e) Compensatory Offs not availed within a period of 3 months will be encashed at single rate (Monthly wage divided by 22 days).

18.0 Allowance for employees at SMRC.

- 18.1 Employees at Senior Managers' Recreation Centre (SMRC) will receive an all inclusive allowance of Rs. 400/- per month in consideration of irregular nature of their duties. This allowance will not be considered for the purpose of Bonus, Gratuity, House rent Allowance etc.

19.0 Reimbursement of outdoor expenses and class of Travel.

- 19.1 Effective the date of settlement, employees who are away on Company duty for 2-4 hours shall be paid Rs. 20/- as outdoor expenses and

employees who are away on company duty during the meal time shall be paid outdoor expenses of Rs. 50/- per meal.

- 19.2 Employees who are away for work for a minimum of 8 hours will be paid Rs. 60/- per day.
- 19.3 Employees away for 1 day inclusive of night halt will be reimbursed outdoor expenses at following rates:
 - a. Metro cities - Bombay, Delhi, Calcutta & Madras. Rs. 450/-
 - b. All state capitals. Rs. 300/-
 - c. All other locations. Rs. 200/-

- 19.4 The existing entitlement for class of travel shall be as under:

Grade	Class of Travel
G1, G2	Second
G2 with more than 10 years service	First
G3 & above	First

Those who are currently eligible for first class travel on personal basis will continue to avail this benefit. As a special case and without creating any precedents, it is agreed that the employee in grade G1(U2) as on 1/1/96 will be eligible for First class travel on personal basis.

20.0 Reimbursement in lieu of canteen facilities.

- 20.1 Effective 1/1/1996, reimbursement of expenses for meals, snacks, tea, etc per shift worked for employees working at Vasco Installation in lieu of subsidised Canteen facility, shall be revised as follows:

Rs. 50.00	per 8 hours shift worked.
Rs. 60.00	per 12 hours shift worked.
Rs. 20.00	per half shift worked.

- 20.2 Employees at Company's Regional and Liaison offices will be reimbursed at the rate of Rs. 40/- per day worked for meal expenses in lieu of subsidised canteen facilities.

21.0 Medical Reimbursement.

- 21.1 The annual limits for reimbursement of medical expenses for domiciliary treatment of self, spouse and depended children will be revised as follows.

Single employee	Rs. 6000/- p. a.
Married employee	Rs. 6500/- p. a.
Married Employee with children.	Rs. 7000/- p. a.

- 21.2 Entitlement as above is subject to deduction as applicable from time to time as follows:

21.3 For employees covered under Employees' State Insurance Scheme, employer's contribution to the Employees' State Insurance Scheme.

21.4 For employees not covered by Employees' State Insurance Scheme, premium in excess of normal for Group Health Insurance Scheme, since the premium for normal benefits will be borne by the Company.

21.5 Employees will continue to be allowed to carry forward to the following year unutilised portion of medical reimbursement amounts for a maximum period of three years. The current applicable block is from 1-1-1996 to 31-12-1998.

22.0 Leave Travel Allowance

22.1 Employees will be reimbursed, every year LTA equivalent to the train fare for 1500 kms, one way, (3000 kms To & Fro) for self, spouse and a maximum of three dependent children below 25 years by applicable mode of travel.

22.2 Effective 1/1/1996 the incidental expenses payable for the employee or the family as the case may be, and not per ticket while availing LTC in a calendar year will be as under:

Rs. 730/- for First class
Rs. 530/- for Second class

22.3 Leave travel allowance is available to employee and his/her spouse and a maximum of 3 dependent children below 25 years. The class of travel will be as per para 19.4 above.

22.4 Employees who are reimbursed LTA to home town will be reimbursed actual travel fare by applicable mode of travel for self, spouse and maximum of 3 dependent children below age of 25 years besides applicable incidental expenses.

All other terms and conditions for availing LTC will remain unaltered.

23.0 Uniforms & Shoes

23.1 a) Uniforms

Employees will be provided Uniforms every year as under:

- 1) Employees in Operations & Maintenance assigned to DAP and NPK Plant and all Welders and Fabricators. ... 6 pairs.
- 2) Craftsmen & Technicians Operations & Maintenance and Material Handling Operator working in KCL Godown ... 5 pairs.
- 3) Employees in Laboratory ... 4 pairs.
- 4) All other employees ... 3 pairs.

Employees will be required to wear uniforms while on duty.

23.2 b) Shoes

23.2.1 Employees working in Factory, Projects & Technical Services, Vasco Installation and Dam site except Stenographers, Steno Clerk, Clerks, Clerk/Typists, and Librarian will be eligible annually for three pairs of safety shoes/gumboots PVC shoes or two pairs of safety shoes/gumboots/PVC shoes and reimbursement cost of 1 pair of shoes per year subject to a maximum of Rs. 600/- per pair.

23.2.2 Employees in Administrative Building, regional/Liaison Offices and Stenographers, Steno Clerk Clerks, Clerk/Typists, and Librarian working in the factory and projects & Technical Services will be reimbursed only cost of one pair of shoes per year subject to maximum of Rs. 600/- per pair.

23.3 c) Raincoats

Effective 1/1/98, in view of Safety & work exigencies Craftsmen, Mobile Equipment Operators, Pump Operators, Technicians and Laboratory Assistants in Operations, Maintenance and Laboratory will be provided rainwear (Pant & Shirt) in lieu of raincoat once a year. The other terms & conditions remain unchanged.

24.0 Loans

24.1 a) Vehicle Loans :

The maximum loan available for purchase of motorcycle/scooter/moped will be Rs. 40,000/- or actual cost of vehicle whichever less. Repeat loan for vehicle will only be available after the earlier vehicle/furniture loans has been paid back or the instalment period of the loan is over, whichever is later. The loan will be continued to be recovered in 48 instalments at the rate of interest of 4% p.a.

24.2 b) Furniture/Equipment Loans :

The maximum loans available for purchase of various prescribed items of household furniture/equipment revised to Rs. 40,000/- This loan will be recovered in 48 instalments at the rate of interest of 4% p.a.

Vehicle & Furniture/Equipment Loan will not be drawn concurrently i.e. furniture loan will be granted only on expiry of the instalment period of vehicle loan and vice-versa.

Employees will be eligible for the differential loan between the loan availed after 1/1/1996 and the revised loan limits. This loan recovery of differential loan will be coterminous.

24.3 c) Housing Loan:

The maximum loan available for housing will be Rs. 3,00,000/-

Employees will be eligible for the differential loan amount between the loan availed after 1/1/1996 and the revised loan limits. However, employees will furnish two sureties for this additional loan.

Union demands that additional loan should be given for additions/expansions/modifications of the existing house. The management agreed to review the said request in line with similar provisions prevailing in the Company Housing Loan Scheme, applicable to other categories of employees.

Loans will be granted on such terms and conditions set forth by the Company which ensures smooth recovery.

25.0 Classification and designation of jobs.

25.1 Jobs shall be classified as shown in Annexure 3. Employees shall be placed in the revised classification effective from 1/1/96.

26.0 Promotion Policy

26.1 The promotion policy as applicable to the employees covered by the settlement shall be as Annexure 2.

27.0 Annual Performance Award

27.1 Annual Performance Award applicable to all employees.

The annual performance award scheme introduced in 1987, applicable to all the employees shall continue to remain unaltered except that the table for payment shall be revised, as per Annexure 1 of Annexure III, effective 1/1/1996.

27.2 Additional Annual Performance Award.

The existing scheme introduced with effect from 1/1/94 applicable to certain designated categories for payment of Annual Performance Award shall continue to remain unaltered.

All other terms and conditions for payment of above award shall continue to remain unchanged.

27.4 Operational Efficiency and Productivity.

The management raised the issue of existing work practices which are effecting the operational efficiency and productivity and emphasised the need for taking necessary steps for removal of such practices immediately. Following has been agreed in this regard:

- i. Employees in categories of Craftsmen, Mobile Equipment Operators, Pump Operators, Technicians and Laboratory Assistance in Operations, Maintenance and

Laboratory & Draftsmen & Civil Overseer (working in Ammonia Urea, NPK, DAP, Bagging RMH, Utilities Plants, Laboratory, Projects & Technical services and Maintenance) will continue to carry out all the jobs which they have been doing in the past during normal plant operations, emergencies, shutdown, etc.

- ii. It was agreed by the Union that other work practices as identified and discussed in various areas in the Plant operations affecting efficiency and productivity will be removed and complete flexibility and interchangeability shall be implemented.
- iii. The management agreed to re-examine the existing Additional Performance Award Schemes and evolve an integrated Scheme with necessary modifications in order to put greater emphasis on operational efficiency and productivity. The proposed Scheme shall cover various factors like reduction in consumption of raw materials, energy, overtime, optimum utilisation of manpower, attendance, on stream hours and those mentioned at (i) and (ii) above.
- iv. The Union agrees to abide by the system which the management may evolve to monitor implementation of this scheme which will form the basis for payment as per scheme proposed at sub-paragraph (iii) above. The Scheme thus framed shall have prospective effect. Periodical review in this regard shall be carried out every fortnight to monitor implementation of the activities as listed above. The first such review shall be carried out after two weeks from the date of final signing of the settlement.

28.0 Ex-Gratia in lieu of Bonus

28.1 Employees who are excluded from payment of Bonus by virtue of their salaries (Basic + VDA + PP) exceeding Rs. 3500/- per month, will be paid ex-gratia in lieu of Bonus, equivalent to the maximum of bonus declared by the Company for each financial year as per payment of Bonus Act.

29.0 Pension Scheme

29.1 Management agrees to revise the employer's contribution to 5% of Basic + DA + VDA and the contribution of employees will remain unaltered.

It is agreed that this Pension Scheme will be modified by the management in consultation with union to provide for the benefits under the Government Pension Scheme, introduced, effective November, 1995. There will be no further contribution/financial implication from

the management in formulating the scheme to meet with this requirement.

30.0 Union Facilities

- 30.1 The President and General Secretary will be reporting in general/day shift as the case may be during the tenure of their respective offices. They will report at the regular place of work and do their normal duties. They will be released whenever required by the management with prior permission of the respective supervisor. No other committee member will be permitted to engage in union activities during working hours except for actual participation in discussions with the management during negotiations on charter of demands, or other major discussions as required by the management.

31.0 Applicability

- 31.1 This settlement will be applicable to all the present and future permanent workmen of Zuari Agro Chemicals Limited at their establishments at Goa, offices at Delhi, Bombay and Regional Marketing offices irrespective of their union affiliations.
- 31.2 All such workmen willing to receive the benefits under this settlement with all its terms and conditions incorporated therein shall have to sign individually the specified declaration as enclosed hereto as Annexure 5, within 7 days, agreeing to abide by and bind himself/herself by accepting all the terms and conditions of this Settlement to become eligible to receive the benefits.

32.0 Period of Settlement

- 32.1 This Settlement shall be binding during the period commencing on January 1, 1996 and ending on 31st December 1998 and shall continue to be binding and operative thereafter until terminated as per Section 19 of the I. D. Act, 1947.

33.0 Payments

- 32.1 The payment under this settlement shall be determined and become due and will be paid on or before 9-12-97.

ANNEXURE - 1

CLASSIFICATION OF JOBS

- G1 SANITARY ATTENDANT
YARDGANG GENERAL
YARDGANG (STORES)
ESTATE ATTENDANT
- G2 SANITARY ATTENDANT-I
YARDGANG GENERAL-I
COOK CUM ATTENDANT

OFFICE ATTENDANT
YARDGANG (STORES)-I
ESTATE ATTENDANT-I
GENERAL OFFICE ATTENDANT (REG. OFF)

- G3 COOK CUM ATTENDANT-I
OFFICE ATTENDANT-I
GENERAL OFFICE ATTENDANT (REG. OFF)-I
YARDGANG STORES-II
ESTATE ATTENDANT-II
VEHICLE DRIVER
SANITARY ATTENDANT-II
YARDGANG GENERAL-II

- G4 VEHICLE DRIVER-I
NURSING ASSISTANT
JR. MATERIAL HANDLING CLERK
JR. MATERIAL HANDLING OPERATOR
JR. TOOL ROOM CLERK
JR. CLERK/TYPIST
JR. CLERK
YARDGANG CUM REGGER
JR. CRAFTSMAN
JR. MOBILE EQUIPMENT OPERATOR
JR. PUMP OPERATOR
COOK CUM ATTENDANT-II
OFFICE ATTENDANT-II
GEN OFFICE ATTENDANT REG. OFFICE-II
YARDGANG STORES-III
ESTATE ATTENDANT-III
JR. CRANE OPERATOR CUM CRAFTSMAN

- G5 VEHICLE DRIVER-II
YARDGANG LEADER CUM RIGGER-I
CRAFTSMAN
CRANE OPERATOR CUM CRAFTSMAN
MOBILE EQUIPMENT OPERATOR
PUMP OPERATOR
NURSE
MATERIAL HANDLING CLERK
MATERIAL HANDLING OPERATOR
TOOL ROOM CLERK
CLERK
CLERK/TYPIST
JR. LIBRARIAN
JR. S & D ASSISTANT
JR. STORES ASSISTANT
JR. STORE VERIFIER
TRANSPORT ASSISTANT
JR. ESTATE ASSISTANT
JR. TELEPHONE/TELEX OPERATOR (SHIFTS)
JR. MATERIAL HANDLING ASSISTANT
JR. RECP CUM TELEPHONE OPERATOR
JR. TELEX OPERATOR
JR. ACCOUNT ASSISTANT
JR. TREASURY ASSISTANT
JR. INSURANCE ASSISTANT
JR. SHARES ASSISTANT
JR. COMPUTER OPERATOR
JR. PURCHASE ASSISTANT
JR. SALES SERVICE ASSISTANT
JR. ANALYTICAL ASSISTANT

- G6 JR. STENOGRAPHER
JR. STENO TYPIST
JR. STENO CLERK
JR. ADMINISTRATIVE ASSISTANT
JR. PERSONNEL ASSISTANT
- VEHICLE DRIVER-II
YARDGANG LEADER CUM REGGER-II
SR. CRAFTSMAN
SR. MOBILE EQUIPMENT OPERATOR
PUMP OPERATOR
SR. NURSE
SR. MATERIAL HANDLING CLERK
SR. MATERIAL HANDLING OPERATOR
SR. TOOL ROOM CLERK
SR. CLERK
SR. CLERK/TYPIST
LIBRARIAN
S & D ASSISTANT
STORES ASSISTANT
STOCK VERIFIER
TRANSPORT ASSISTANT
ESTATEMAINT ASSISTANT
TELEPHONE/TELEX OPERATOR (SHIFTS)
MATERIAL HANDLING ASSISTANT
DRAFTSMEN
SR. CRANE OPERATOR CUM CRAFTSMAN
JR. CIVIL OVERSEER
JR. TECHNICIAN - OPERATIONS
JR. TECHNICIAN - MAINTENANCE
JR. TECHNICIAN - LABORATORY
RECP CUM TELEPHONE OPERATOR TELEX OPERATOR
ACCOUNTS ASSISTANT
TREASURY ASSISTANT
INSURANCE ASSISTANT
SHARES ASSISTANT
COMPUTER OPERATOR
PURCHASE ASSISTANT
SALES SERVICE ASSISTANT
ANALYTICAL ASSISTANT
CONFIDENTIAL STENOGRAPHER
STENOGRAPHER
STENO TYPIST
STENO CLERK
ADMINISTRATIVE ASSISTANT
PERSONAL ASSISTANT
- G7 SR. LIBRARIAN
SR. S&D ASSISTANT
SR. STORES ASSISTANT
SR. STOCK VERIFIER
SR. TRANSPORT ASSISTANT
SR. PERSONNEL ASSISTANT
SR. ESTATEMAINT ASSISTANT
- G7 SR. TELEPHONE/TELEX OPERATOR (SHIFTS)
CONFIDENTIAL SECRETARY
SR. CONFIDENTIAL STENOGRAPHER
SR. STENOGRAPHER
SR. STENO TYPIST

- SR. STENO CLERK
SR. MATERIAL HANDLING ASSISTANT
SR. DRAFTSMAN
SR. CRANE OPERATOR CUM MASTER CRAFTSMAN
CIVIL OVERSEER
MASTER TECHNICIAN
SR. TECHNICIAN - OPERATIONS
SR. TECHNICIAN - MAINTENANCE
SR. TECHNICIAN - LABORATORY
SR. RECP CUM TELEPHONE OPERATOR
SR. TELEX OPERATOR
SR. ACCOUNTS ASSISTANT
SR. TREASURY ASSISTANT
SR. INSURANCE ASSISTANT
SR. SHARES ASSISTANT
SR. COMPUTER OPERATOR
SR. PURCHASE ASSISTANT
SR. S&D ASSISTANT
SR. SALES SERVICE ASSISTANT
SR. ANALYTICAL ASSISTANT
SR. ADMINISTRATIVE ASSISTANT
OTHERS IN U9 PROMOTED TO U10 AFTER 5 YEARS OF SERVICE.

- G8 MASTER TECHNICIAN
SR. ASSISTANT DRAFTING
SR. CIVIL OVERSEER
SR. ASSISTANT - OPERATIONS
SR. ASSISTANT - MAINTENANCE
SR. ASSISTANT - LABORATORY
SR. CONFIDENTIAL SECRETARY
EMPLOYEES IN U10 PROMOTED UNDER CAREER PROGRESSION AFTER 5 YEARS OF SERVICE.

- G9 EMPLOYEES IN U11 PROMOTED UNDER CAREER PROGRESSION AFTER 5-6 YEARS SERVICE AS APPLICABLE.

- N. B. STENOGRAPHERS ATTACHED TO GENERAL MANAGERS WILL BE DESIGNATED AS CONFIDENTIAL SECRETARIES AND SHALL NOT BE IN A GRADE BELOW G7.

Stenographers attached to Deputy General Managers will be designated as Confidential Stenographers and shall not be below grade G6.

ANNEXURE 2

RECRUITMENT & PROMOTION POLICY

1.1 Objective.

This Promotion policy has been evolved to provide reasonable advancement in career to employees of the Company, within the overall organisational needs and requirements of the Company.

2.1 Recruitment

All recruitment shall be made at the entry level of the concerned Grade. The Grades in which the employees shall be recruited and the minimum qualification and the experience required, shall be as per Annexure enclosed.

3. Promotions/Career Progressions**3.1 Career progression scheme in the non-management group**

Employees will be promoted to the next higher grade after the stipulated periods of service in a given grade, subject to their performance and conduct being satisfactory.

The service periods and number of steps for progression available for various positions are as provided hereinafter.

Whenever a vacancy occurs in categories in which career progression is available, due to separation, transfer, promotion and or such other reason, such vacancies will be filled in, if required, at the entry level of the concerned career progression group and not in the grade of the employee whose separation, transfer, promotion etc. has caused the vacancy.

However, the company depending upon its requirements, may recruit suitable individuals at entry levels or higher levels.

No other avenue for promotion will be available for jobs covered under career progression scheme.

3.2 Other promotions in the non-management group.

Employee may be promoted in cases of vacancies in jobs whose entry level is classified higher than the entry level of position or job in which they have been employed e. g. Office Attendant to Jr. Clerk, Vehicle Driver to Mobile Equipment Operator provided they have the necessary qualifications and experience required and are found suitable by the management.

However, if an employee is already at the entry level in a grade higher than the entry level grade of the vacancy, he will continue to be in the same grade and only his position title will be suitably changed, without any change in remuneration. In such a case the resultant vacancy will be filled at the entry level of the employee whose position is being changed.

4. Promotion to entry level in Management Group

Fifty percent of the vacancies at the entry level to Management group will be filled with promotees from the non management group,

provided candidates with required qualifications and experience are available within the non management group and are found suitable by the Management.

4.2 For promotions to entry positions in management group, technicians, craftsmen, civil overseers and craftsmen salary grade G/9, G/8 and G/7 with three years service in salary grade G/7 and Assistant & equivalent positions in salary grade G/8 and G/7 and G/6 with three years service in G/6, will be considered on equal footing and the most suitable employee promoted. Management's decision in this regard will be final.

4.3* Fixation of Pay on Promotion to the entry level in the management group will be in accordance with the policy applicable to management employees.

5. Procedure for promotions.

The following procedure will be adopted for promotion of employees to fill the vacancies as per clause 3.2 & 4 above.

5.1 Employees from the same department/division with requisite qualifications and experience from the next lower grade will be first considered for promotion.

5.2 If no suitable candidate with requisite qualifications and experience is available within the department/division, suitable candidate from other department/division may be considered. For this purpose the vacancy will be notified on the notice boards of the company.

5.3 Applicants meeting the requirements of the post will be interviewed by the management. The decision of the management shall be final.

5.4 If no suitable candidate is found within the company, the vacancy will be filled by outside recruitment.

6. Salary revision on promotion within non management group

6.1. If the salary (basic + residual personal pay) of the employee is below the minimum of the grade to which he is being promoted, an amount equivalent to the increment in the higher grade to which he is being promoted will be added to his salary (Basic + Personal Pay). The amount thus arrived at will be fitted at the appropriate or immediate lower step in the higher grade. The resident amount, if any, will be added to his personal pay.

6.2. If the salary (basic + residual personal pay) is at or above minimum of the grade to which he is

being promoted he will be granted one increment in the salary grade to which he is being promoted and placed in the appropriate or immediate lower step of the said grade. The residual amount, if any, due to this fitment will be added to personal pay.

6.1 Revision in allowances on transfer

Employees transferred/promoted will receive allowances, as applicable to the position to which he is transferred/promoted.

7. General

The revised policy supersedes the provisions of the promotion policy elaborated in the earlier settlements, as well as any understanding or practice in vogue hitherto.

8. Career Progression

8.1 Sanitary Attendant, Yardgang General.

Candidates with requisite qualification and experience and those who meet the standards of recruitment will be initially employed in salary grade G-1.

On completion of 8 years service in salary grade G-1 the concerned employee will be promoted to salary grade G-2, provided his performance and conduct is satisfactory.

On completion of 10 years service in salary grade G-2, the concerned employee will be promoted to salary G-3, provided his performance and conduct is satisfactory.

8.2 Yardgang (Stores) and Estate Attendants.

Candidates with requisite qualification and experience and those who meet the standards of recruitment will be initially employed in salary grade G-1.

On completion of 5 years service in salary grade G-1 the concerned employee will be promoted to salary grade G-2, provided his performance and conduct is satisfactory.

On completion of 8 years service in salary grade G-2 the concerned employee will be promoted to salary grade G-3, provided his performance and conduct is satisfactory.

8.3 Cook cum Attendant & Office Attendant.

Candidates with requisite qualifications & experience and those who meet the standards of recruitment will be employed initially in salary grade G-2.

On completion of 8 years service in salary grade G-2, the concerned employee will be promoted to salary grade G-3 provided his performance and conduct is satisfactory.

On completion of 10 years service in salary grade G-3 the concerned employee will be promoted to salary grade G-4, provided his performance and conduct is satisfactory.

Note: For the employees currently in Grade U3 (now G2), the number of years of service put in by the employee in Grade U3 will be the number of years of service in Grade G2, for promotion to Grade G3.

For the employees currently in Grade U4 (now G2), the number of years of service put in by the employee in Grade U3 and U4 will be the number of years of service in Grade G2, for promotion to Grade G3.

For the employees currently in Grade U5 (now G3), the number of years of service put in by the employee in Grade U3, U4 and U5 less 8 years, will be the number of years of service in Grade G3, for promotion to Grade G4.

8.4 General Office Attendant (Regional & Liaison Offices)

Candidates with requisite qualification & experience and those who meet the standard of recruitment will be employed initially in salary grade G-2.

On completion of 5 years service in salary grade G-2 the concerned employee will be promoted to salary grade G-3, provided his performance and conduct is satisfactory.

On completion of 10 years service in salary grade G-3 the concerned employee will be promoted to salary grade G-4, provided his performance and conduct is satisfactory.

8.5 Vehicle Driver

Candidates with requisite qualification and experience and those who meet the standards of recruitment will be initially employed in salary grade G-3.

On completion of 5 years service in salary grade G-3 the concerned employee will be promoted to salary grade G-4, provided his performance and conduct is satisfactory.

On completion of 8 years service in salary grade G-4, the concerned employee will be

promoted to salary grade G-5, provided his performance and conduct is satisfactory.

On completion of 8 years service in salary grade G-5, the concerned employee will be promoted to salary grade G-6, provided his performance and conduct is satisfactory.

8.6 Yardgang Leader Cum Rigger

Candidates with requisite qualification and experience and those who meet the standards of recruitment will be initially employed in salary grade G-4.

On completion of 5 years service in salary grade G-4 the concerned employee will be promoted to salary grade G-5, provided his performance and conduct is satisfactory.

On completion of 8 years service in salary grade G-5, the concerned employee will be promoted to salary grade G-6, provided his performance and conduct is satisfactory.

8.7 Jr. Pump Operator, Jr. Mobile Equipment Operator, Jr. Material Handling Clerk, Nursing Assistant, Jr. Clerk, Jr. Tool Room Clerk, Jr. Clerk/Typist and Jr. Material Handling Operator.

Candidates with requisite qualifications and those who meet the standards of recruitment will be employed initially in salary grade G-4.

On completion of 5 years service in salary grade G-4 the concerned employee will be promoted to salary grade G-5, provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-5 the concerned employee will be promoted to salary grade G-6, provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-6 the concerned employee will be promoted to salary grade G-7, provided his performance and conduct is satisfactory.

8.8 Craftsman (Maintenance Department)/Jr. Crane Operator cum Craftsman

ITI Certificate holders who meet standards of recruitment will be inducted initially in the Company as Craftsmen Trainees for a period of one year.

Upon successful completion of training period the concerned trainee will be absorbed as Jr. Craftsman in salary grade G-4.

On completion of 5 years in salary grade G-4, the concerned employee will be promoted to salary grade G-5 provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-5 the concerned employee will be promoted to salary grade G-6, provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-6 the concerned employee will be promoted to salary grade G-7 provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-7 the concerned employee will be promoted to salary grade G-8 provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-8 the concerned employee will be promoted to salary grade G-9 provided his performance and conduct is satisfactory.

8.9 Jr. Librarian, Jr. Stores Assistant, Jr. Stock Verifier, Jr. S & D Assistant, Jr. Personnel Asst., Jr. Administrative Asst. Jr. Transport Assistant, Jr. Estate Maintenance Assistant, Jr. Telephone/Telex Operator (Shifts), Jr. Stenographer, Jr. Material Handling Assistant, Jr. Purchase Assistant, Jr. Accounts Assistant, Jr. Treasury Assistant, Jr. Insurance Assistant, Jr. Shares Assistant, Jr. Computer Operator, Jr. Sales & Services Assistant, Jr. Analytical Assistant, Jr. Receptionist Cum Telephone Operator, Jr. Telex Operator, Jr. Steno Typist, Jr. Steno Clerk.

Candidates with requisite qualifications & experience and those who meet the standards of recruitment will be employed initially in salary grade G-5.

On completion of 5 years service in salary grade G-5 the concerned employee will be promoted to salary grade G-6, provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-6 the concerned employee will be promoted to salary grade G-7, provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-7, the concerned employee will be promoted to salary grade G-8, provided his performance and conduct is satisfactory.

8.10 Jr. Technicians - Operations/Maintenance/Laboratory and Draftsman/Jr. Civil Overseer.

B.Sc. and Diploma Holders in Engineering who meet standards of recruitment will be inducted

initially in the Company as Operations/Maintenance/Laboratory & Draftsmen trainees for a period of 18 months—

Upon successful completion of the training period the concerned trainee will be taken on regular Company pay-roll, in the salary grade G-6.

On completion of 3 years service in salary grade G-6 the concerned employee will be promoted to salary grade G-7 provided his performance and conduct is satisfactory.

On completion of 5 years service in salary grade G-7, the concerned employee will be promoted to salary grade G-8, provided his performance and conduct is satisfactory.

On completion of 6 years service in salary grade G-8, the concerned employee will be promoted to salary grade G-9, provided his performance and conduct is satisfactory.

Minimum qualification and experience at the entry level.

Salary Grade	Job title	Minimum qualification & experience at entry level
G-1	Sanitary Attendant	8th Std. passed with experience.
	Yardgang General	
	Yardgang (Stores) Estate Attendant	8th Std. passed with experience in similar jobs.
G-2	Cook Cum Attendant	8th. Std with experience in cooking.
	Office Attendant	S. S. C. with experience.
	General Office Attendant (Reg. Office)	S. S. C. with experience.
G-3	Vehicle Driver	8th Std. with heavy motor vehicle licence & experience.
G-4	Jr. Craftsman	SSC with ITI certificate in relevant trade
	Jr. Crane Operator cum Craftsman	SSC with heavy motor vehicle licence & experience
	Jr. Mobile Equipment Operator	8th std. with heavy motor vehicle licence & experience.
	Jr. Pump Operator	S. S. C. with experience
	Nursing Assistant	S. S. C. with diploma in nursing
	Jr. Clerk	Graduate in any discipline with experience.
	Jr. Clerk/Typist	Graduate in any discipline and/or senior typewriting with experience.

	Jr. Material Handling operator	Graduate with experience.
	Jr. Material Handling clerk	Graduate with experience.
	Jr. Tool Room Clerk	Graduate with experience.
G-5	Jr. Librarian	Graduate with diploma in Library Science with experience.
	Jr. Stores Assistant	Graduate with experience.
	Jr. Stock Verifier	— do —
	Jr. Transport Assistant	— do —
	Jr. Estate Maint Assistant	— do —
	Jr. Telephone/Telex Operator (Shifts)	Graduate with experience in telephone/telex operations.
	Jr. Material Handling Assistant	Graduate with experience.
	Jr. Recp. Cum Tele Operator	Graduate with experience with telephone/telex operations.
	Jr. Telex Operator	Graduate with sr. typewriting & experience in telex operations.
	Jr. Accounts Assistant	B. Com. graduates with experience.
	Jr. Treasury Assistant	B. Com. graduate with experience.
	Jr. Insurance Assistant	Graduate with sr. typewriting & experience.
	Jr. Shares Assistant	Graduate with experience.
	Jr. Computer Operator	Graduate with sr. typewriting.
	Jr. Purchase Assistant	Graduate with sr. typewriting & experience.
	Jr. S & D Assistant	Graduate with sr. typewriting and experience.
	Jr. Sales Service Assistant	— do —
	Jr. Analytical Assistant	B. Sc. (Chemistry) with experience.
	Jr. Stenographer	Graduate with sr. shorthand & sr. typewriting with experience.
	Jr. Steno Clerk	— do —
	Jr. Steno Typist	— do —
	Jr. Administrative Assistant	Graduate with experience.
	Jr. Personnel Assistant	Graduate with experience.
G-6	Draftsman	Diploma in Drafting (Civil or Mechanical)
	Jr. Civil Overseer	Diploma in Civil Engg. with or without experience.
	Jr. Technician - Operations	B. Sc./Diploma holders with or without experience.
	Jr. Technician - Maintenance	— do —
	Jr. Technician - Laboratory	— do —

NB

Other requirements being equal, candidates of Goan origin will be given preference in employment. The maximum age limit requirement is 30 yrs. This age limit may be relaxed by 5 yrs. in case of scheduled caste/scheduled tribe candidates, ex-servicemen and handicapped person.

Qualification at the entry level in respect of any of the above positions may be relaxed by the Management in case of employment of next of kin of employees in case of death, or permanent total disability of the employee.

ANNEXURE 3.

ANNUAL PERFORMANCE AWARD SCHEME

1.1 Objective

To pay annual performance award to eligible employees, based on capacity utilisation of the plants, subject to achievement of certain minimum production during each calendar year, and thereby maximise productivity and efficiency.

1.2 Capacity Utilisation

Capacity utilisation, as a percentage, will be determined for each calendar year as below:

$$\text{\% of capacity utilisation} = \frac{\text{Total Production of Urea+NPK+DAP}}{\text{Plant capacities of Urea+NPK+DAP}} \times 100$$

Note: The current plant capacities reckoned for the above purpose will be as under:

Urea Plant	— 3,40,000 tonnes per annum
NPK Plant	— 1,48,500 — do —
DAP Plant	— 1,65,000 — do —

1.3 Production Targets

The minimum plant-wise production targets to be achieved during each calendar year, irrespective of any causes whatsoever contributing to their non-achievement, except as provided in clause 1.7 below, in order to qualify for payment of awards, will be as under:

- a) Urea Plant — 3,06,000 tonnes Urea per annum.
- b) NPK Plant — 1,33,650 tonnes of 19:19:19 or 28:28:0 or 14:35:14 or any other grade or total of all the grades per annum.
- c) DAP Plant — 1,48,500 tonnes of 18:46:0 per annum.

These targets of production will be proportionately revised to reflect changes in the capacity of various plants as specified in clause 1.2 of this scheme.

1.4 Awards amounts

Amounts of award to be paid, related to percentages of capacity utilisation achieved during each calendar year, applicable to employees will be as per the performance award table enclosed (Table 1).

1.5 Qualifying service for eligibility

All employees who have completed minimum of 6 months of service continue on the payroll, as at the end of each calendar year and fulfil the minimum attendance indicated below, will be eligible for the award under this scheme, subject to terms and conditions thereof.

Note: In case of company trainees who are offered regular employment with the company, on successful completion of their training during the calendar year, the period of training will be considered for purposes of eligibility, subject to all other norms of attendance and eligibility.

1.6 Minimum Attendance

- a) Employees should put in minimum of 180 days single rate attendance during the reference year will receive the full applicable incentive.
- b) Employees who have been in the service of the company for part of the year (but 6 months or more) should put in minimum of 90 days single rate attendance during the reference year to qualify for (award amount will however be prorated to the period of service).
- c) Where an employee's attendance falls below the minimum days specified in (a) and (b) above, due to availing of accumulated authorised leave or compensatory offs he will be paid applicable incentive provided there is no unauthorised absence or leave without pay during the year.
- d) In case of employees who do not fulfil the minimum attendance requirements due to special sick leave, maternity or accidents, incentive will be paid on prorata basis to the days of attendance provided there is no unauthorised absence during the reference year.

1.7 Disqualification for payment

- a) The following categories of employees will be disqualified for payment of awards:
 - i) employees charge-sheeted and found guilty of misconduct/misdemeanour of grave or habitual nature during the reference year.
 - ii) employees who have reported late for work or departed earlier than closing time, on more than 50 occasions during the reference year.

1.8 Minimum guaranteed amount

In the event the percentage of capacity utilisation in any calendar year falls below 90% but is not below 85%; notwithstanding clause 1.3 above, as a measure of goodwill, all eligible employees will be paid a fixed amount of performance award for that year, which will be equal to 90% of the award amount indicated under 90% capacity utilisation in the awards table against their respective grades, subject to fulfilment of all other terms and conditions of the scheme.

In any calendar year, if the production of Phosphatic fertilizer is less than 1,48,500 metric tonnes of NPK and 1,65,000 metric tonnes of DAP due to shortage of Phosphoric Acid resulting from Government restrictions, the resultant loss in production will be made good at the national rate of 400 metric tonnes per day of NPK and 450 metric tonnes per day of DAP, for those number of days only when Phosphoric acid was not available, to arrive at the total production figures for calculating incentive, subject to a maximum figure of 1, 48,500 metric tonnes of NPK and 1,65,000 metric tonnes of DAP in a year.

1.9 Additional Performance Award

The Additional Performance Award payable to Craftsmen, Mobile Equipment Operators, Pump Operators, Technicians and Laboratory Assistants in Operations, Maintenance, Laboratory, Plant Engineering Services, Civil Overseers and Draftsmer in Projects & Technical Services and Maintenance will be paid as per awards table 2. The other terms and conditions of eligibility and payment remain unchanged.

1.10 Expansion and major modification.

In case any major modifications/changes/additions are effected in the production units resulting in changes in production portfolio or any new/additional facilities to manufacture additional products or to significantly expand the plant capacities are installed, whereby the elements of the scheme need to be revised, the scheme will be reviewed after taking into consideration the views of the representative union.

Annual Performance Award Scheme

Grade	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112
G1	4525	4555	4585	4616	4645	4675	4715	4755	4795	4835	4875	4925	4975	5025	5075	5125	5185	5245
G2	4590	4640	4690	4740	4790	4840	4900	4960	5020	5080	5140	5210	5280	5350	5420	5490	5570	5650
G3	4690	4750	4810	4870	4930	4990	5060	5130	5200	5270	5340	5425	5510	5595	5680	5765	5865	5965
G4	4760	4830	4900	4970	5040	5110	5190	5270	5350	5430	5510	5605	5700	5795	5890	5985	6095	6205
G5	4830	4910	4990	5070	5150	5230	5320	5410	5500	5590	5680	5785	5890	5995	6100	6205	6325	6445
G6	4940	5040	5140	5240	5340	5440	5550	5660	5770	5880	5990	6115	6240	6365	6490	6615	6755	6895
G7	5025	5135	5245	5355	5465	5575	5695	5815	5935	6055	6175	6310	6445	6580	6715	6850	7000	7150
G8	5120	5240	5360	5480	5600	5720	5850	5980	6110	6240	6370	6515	6660	6805	6950	7095	7255	7415
G9	5205	5335	5465	5595	5725	5855	5995	6135	6275	6415	6555	6710	6865	7020	7175	7330	7500	7670
Grade	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130
G1	5305	5365	5425	5495	5565	5635	5705	5775	5855	5935	6015	6095	6175	6265	6355	6445	6535	6625
G2	5730	5810	5890	5980	6070	6160	6250	6340	6440	6540	6640	6740	6840	6950	7060	7170	7280	7390
G3	6065	6165	6265	6380	6495	6610	6725	6840	6970	7100	7230	7360	7490	7630	7770	7910	8050	8190
G4	6315	6425	6535	6665	6795	6925	7055	7185	7335	7485	7635	7785	7935	8095	8255	8415	8575	8735
G5	6565	6685	6805	6940	7075	7210	7345	7480	7630	7780	7930	8080	8230	8390	8550	8710	8870	9030
G6	7035	7175	7315	7470	7625	7780	7935	8090	8260	8430	8600	8770	8940	9120	9300	9480	9660	9840
G7	7300	7450	7600	7765	7930	8095	8260	8425	8605	8785	8965	9145	9325	9515	9705	9895	10085	10275
G8	7575	7735	7895	8070	8245	8420	8595	8770	8960	9150	9340	9530	9720	9920	10120	10320	10520	10720
G9	7840	8010	8180	8365	8550	8735	8920	9105	9305	9505	9705	9905	10105	10315	10525	10735	10945	11155

Additional Performance Award Scheme

Capacity	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115
G4	0	900	920	940	960	980	1000	1020	1040	1060	1080	1100	1120	1140	1160	1180	1200
G5	0	900	920	940	960	980	1000	1020	1040	1060	1080	1100	1120	1140	1160	1180	1200
G6	0	900	920	940	960	980	1000	1020	1040	1060	1080	1100	1120	1140	1160	1180	1200
G7	0	900	920	940	960	980	1000	1020	1040	1060	1080	1100	1120	1140	1160	1180	1200
G8	0	900	920	940	960	980	1000	1020	1040	1060	1080	1100	1120	1140	1160	1180	1200
G9	0	900	920	940	960	980	1000	1020	1040	1060	1080	1100	1120	1140	1160	1180	1200
Capacity		116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	
G4	0	1220	1240	1260	1280	1300	1324	1348	1372	1396	1420	1450	1480	1510	1540	1570	
G5	0	1220	1240	1260	1280	1300	1324	1348	1372	1396	1420	1450	1480	1510	1540	1570	
G6	0	1220	1240	1260	1280	1300	1324	1348	1372	1396	1420	1450	1480	1510	1540	1570	
G7	0	1220	1240	1260	1280	1300	1324	1348	1372	1396	1420	1450	1480	1510	1540	1570	
G8	0	1220	1240	1260	1280	1300	1324	1348	1372	1396	1420	1450	1480	1510	1540	1570	
G9	0	1220	1240	1260	1280	1300	1324	1348	1372	1396	1420	1450	1480	1510	1540	1570	

No order as to costs.

Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/10859

The following Award dated 11-8-1998 in Reference No. IT/56/89 given by the Industrial Tribunal, Panaji - Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.
R. S. Mardolker, Ex-Officio Joint Secretary, Labour.
Panaji, 18th September, 1998.

IN THE INDUSTRIAL TRIBUNAL

GOVERNMENT OF GOA

AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

No. IT/56/89

Shri Devidas D. Naik,
Curti, Ponda-Goa.

— Workman/Party I

V/s

M/s Chowgule Engineering,
Vasco-da-Gama, Goa.

— Employer/Party II

Workman/Party I represented by Adv. Shri Zellar D'Souza.

Employer/Party II represented by Adv. Shri G. K. Sardesai.

Panaji, dated: 11-8-1998.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central 14 of 1947) the Government of Goa by Order No. 28/14/85-LAB dated 17th August, 1989 referred the following dispute for adjudication by this Tribunal.

Whether the action of the management of M/s Chowgule Engineering Private Limited, Central Workshop, Lotoulim, in terminating the services of their workman Shri Devidas D. Naik, head watchman, with effect from 4-4-1984 is legal and justified.

If not, to what relief the workman is entitled to?

2. On receipt of the reference a case was registered under No. IT/56/89 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workman-Party I (for short, 'workman') filed his statement of claim which is at Exb. 2. The facts of the case in brief as pleaded by the workman are that he was employed with the Employer-Party II (for short, 'employer') as a Head watchman at their Central Workshop, Loutolim, Salcete, Goa, from 23rd February 1979 on a consolidated salary of Rs. 400/- per month. That he was confirmed in

his post in the scale of Rs. 210-9-255-10-305-11-360 by letter dated 3-11-79. That by letter dated 4th April 1984 the employer terminated his services illegally and at the time of his termination he was drawing salary of Rs. 970 per month. That though he was designated as a Head Watchman he was not exercising any supervisory powers of managerial nature. That termination of his services without assigning any reasons amounts to illegal retrenchment and the same is illegal for non compliance with the provisions of sec. 25F of the Industrial Disputes Act 1947. That before the conciliation officer the employer for the first time took a stand that termination of his services was on account of loss of confidence. That there was no material before the employer to show that there was any reason for the employer to express loss of confidence in the workman and no such material was brought to his notice. That in terms of certified standing orders of the employer it was obligatory on the part of the employer to issue a charge sheet to him or conduct an enquiry in terms of the said certified standing orders. The workman contended that termination of his services by the employer is illegal and unjustified and therefore he is entitled for reinstatement in service with full back wages and other consequential benefits.

it was touching the jurisdiction of this Tribunal to decide the reference, the same issue was tried as preliminary issue. The parties led evidence on the said issue and this Tribunal by order dated 28-1-93 decided the said issue in favour of the workman holding that he is a 'workman' within the meaning of Sec. 2 (s) of the Industrial Disputes Act, 1947 and the parties were directed to lead evidence on the other issues. After the preliminary issue was decided the case was fixed for the evidence of the workman on the other issues. After the workman examined himself and he was partly cross examined and when the case was fixed for hearing on 11-8-98 Adv. Shri Zellar D'Souza, the learned counsel for the workman and Adv. Shri G. K. Sardesai, the learned counsel for the employer submitted that the dispute between the parties was amicably settled and they filed the consent terms dated 11-8-98. Both the parties prayed that consent award be passed in terms of the consent terms dated 11-8-98. I have gone through the consent terms dated 11-8-98 Exb. 30 which are duly signed by the parties. I am satisfied that the said terms are in the interest of the workman. I, therefore accept the submissions made by the parties and pass the consent award in terms of the consent terms dated 11-8-98 Exb. 30.

ORDER

1. The Party II has offered the Party I Rs. 1,21,000.00 (Rupees One Lakh Twenty One Thousand only) in full and final settlement which amount shall be paid to the Party I within a period of 10 days from today. The said amount shall be inclusive of T. D. S. deductions.
2. The Party I has agreed to accept the said amount in full and final settlement of all his claims in the present reference and does not wish to pursue the reference.
3. The Party II shall assist the Party I in claiming his Provident Fund dues.
4. In view of the foregoing terms, the parties treat the issues involved as settled and pray that an award may please be passed in terms of the consent terms.

There shall be no order as to costs.

Inform the Government accordingly.

Sd/-

(A. J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/12208

The following Award dated 8-10-1998 in Reference No. IT/54/95 given by the Industrial Tribunal, Panaji-Goa,

3. The employer filed written statement which is at Exb. 3. The employer stated that the reference is not maintainable as there is no industrial dispute since the workman is not a workman within the meaning of Sec. 2(s) of the Industrial Disputes Act, 1947. The employer stated that the workman was performing duties of mainly supervisory nature and as he was appointed as a Head watchman as per the appointment letter he was required to perform supervisory functions only. The employer denied that the services of the workman were terminated illegally. The employer stated that their certified standing orders are not applicable to the workman because he is not a workman under the Industrial Employment (standing orders) Act. The employer stated that it was noticed that material from the workshop was being taken out unauthorisedly on the trucks leaving the workshop and since the workman was incharge of the overall security at the workshop the circumstantial evidence indicated his possible involvement in the matter and therefore the employer decided to discharge him from service. The workman stated that since the workman was not a workman under the act, it was not obligatory on the part of the employer to issue a charge sheet to him or to hold an enquiry. The employer denied that the termination of services of the workman amounted to retrenchment. The employer denied that the termination of services of the workman is illegal or unjustified. The employer denied that the workman is entitled for reinstatement in service with full back wages as claimed by him. Thereafter the workman filed rejoinder which is at Exb. 4.

4. On the pleadings of the parties issues were framed at Exb. 5. Since the issue No. 1 was pertaining to whether the workman is a 'workman' within the meaning of Sec. 2(s) of the Industrial Disputes Act, 1947 and as

is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary, Labour.

Panaji, 10th December, 1998.

IN THE INDUSTRIAL TRIBUNAL

GOVERNMENT OF GOA

AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/54/95

Workmen rep. by

Goa Trade & Commercial Workers Union

Panaji - Goa.

— Workman/Party I

V/s

The Medical Director

Shrimati Parvatibai

Chowgule Hospital

Vasco-da-Gama, Goa.

— Employer/Party II

Workmen/Party I represented by Adv. Shri R. Mangueshkar.

Employer/Party II represented by Adv. Shri M. S. Bandonkar.

Panaji, dated: 8-10-1998.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by its order dated 19-10-95 bearing No. 28-19-1995-LAB has referred the following dispute for adjudication by this Tribunal.

"Whether the action of the management of M/s. Shrimati Parvatibai Chowgule Hospital, Baina, Vasco-da-Gama, in closing down the establishment with effect from 15-1-94 is legal and justified?

If not, to what relief the workmen are entitled?"

2. On receipt of the reference a case was registered under No. IT/54/95 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workman/union (for short, 'union') filed the statement of claim which is at Exb. 4. The facts of the case in brief as pleaded by the union are that Party II (for short, "employer") is a Medical Director running a hospital at Baina, Vasco-da-Gama, Goa, giving hospital facilities to the entire city of Vasco. That 33 workmen out of 50 workmen employed by the employer became the members of the union on 18-8-93 and the same fact was informed to the employer vide letter dated 21-8-93. That on receipt of the said letter the employer started harassing the workmen and demanded that the workers should resign from the membership of the union. That as a part of harassment the employer stopped payment of bonus to

the workmen and therefore the union raised a dispute before the Labour Commissioner on 2-12-93 as regards the non payment of bonus to the workmen for the year ending 31-3-93. That on 15-1-94 the employer put up a lock to the gates of the hospital at 22 hours and kept the workers out and thereby refusing employment to them. By letter dated 18-1-94 the union informed the Labour Commissioner about the above fact and also requested to withdraw the lockout/refusal of employment to the workers. That the Dy. Labour Commissioner held various meetings to resolve the issue but the employer did not attend the said meetings and informed the Dy. Labour Commissioner that hospital was closed w.e.f. 15-1-94. The union contended that the action of the employer in terminating the services of the workmen is illegal, unjustified and bad in law. The union contended that the employer renovated the hospital after the workmen were thrown out of employment and also that the employer recruited new workmen with the intention to start the hospital without employing those workmen who were refused employment w. e. f. 15-1-94. The union therefore prayed that it be declared that the action of the employer in closing down the establishment w.e.f. 15-1-94 is illegal and unjustified and also further pray that the employer be directed to reinstate the workmen who were refused employment.

3. The employer filed the written statement which is at Exb. 5. By way of preliminary objection the employer stated that the reference is not maintainable because this tribunal cannot decide about the legality and justifiability of the closure once it was accepted that the establishment of the employer was closed w. e. f. 15-1-94. The employer stated that all the workmen were paid their dues and the workmen accepted their dues in full and final settlement of their claim. The employer stated that the establishment namely the Hospital was started by the Trust called Laxmanrao Dattaji Chowgule Charitable Trust in the year 1982 and it provided various types of medical services to the local people at reasonable rates. The employer admitted that the union namely the Goa Trade & Commercial Workers Union sent a letter on 21st August 1993 informing the employer that all workers of the establishment had joined the said union. The employer stated that discussions were held on the charter of demands by the union and a reasonable offer was made by the employer which was not accepted by the union. The employer stated that as the establishment was running in losses it was not possible for the employer to take any additional burden arising out of demands made by the union and therefore the establishment was closed and the notices dated 15-1-94 were sent to the workmen as regards termination of their services arising out of closure. The employer stated that along with the notices the legal dues payable to the workmen were sent by cheques and most of the workers accepted the letter but did not encash the cheques. The employer stated that in the Assembly the Government of Goa gave reply to the call attention notice given by a MLA and in the said reply the Government categorically stated that the establishment is permanently closed. The employer stated that with the intervention of two social workers of the locality discussions were held about the payment arising out of the closure and subsequently

individual settlements were signed with all the workers. The employer denied that the workers were harassed and they were being forced to resign from the membership of the union or that the payment of bonus to them was stopped. The employer denied that employment was refused to the workers and stated that the contentions made by the union that the employer declared lockout are totally false and baseless. The employer stated that during the conciliation proceedings it was clearly mentioned to the Conciliation Officer that the establishment was closed w.e.f. 15-1-94. The employer denied that the Hospital was renovated by the employer or that new staff have been recruited. The employer stated that the Trust has already handed over the possession of the property to the owner in view of the closure of the establishment. The employer stated that the reference made by the Government is not maintainable and the same is liable to be rejected and consequently the question of granting any relief to the workers does not arise. The union thereafter filed rejoinder which is at Exb. 6.

4. On the pleadings of the parties, following issues were framed at Exb. 7.

1. Whether the Party I proves that closing down of the establishment by the Party II is not legal and justified?
2. Whether the Party II proves that the reference is not maintainable and is bad in law for the reasons stated in para. 1(a) to 1(d) of the written statement?
3. Whether the Party I is entitled to any relief?
4. What Award?

5. My findings, on the issues are as follows:

1. Issue No. 1: Does not arise.
2. Issue No. 2: In the affirmative.
3. Issue No. 3: Does not arise.
4. Issue No. 4: As per order below.

REASONS

6. Issue No. 2: This issue is taken up first as it touches the maintainability of the reference itself. Adv. Shri M. S. Bandodkar, the learned counsel for the employer submitted that the reference of the dispute which has been made by the Government itself presupposes that the establishment of the employer is closed. He submitted that there is therefore an admission that the establishment is closed and once closure is admitted, the Industrial Tribunal cannot go into the issue of jurisdiction or legality of the closure. He submitted that the employer has led evidence oral as well as documentary on the factum of closure and this evidence has not been rebutted by the Union. He submitted that the employer has examined Dr. Arondekar and he is not cross examined by the union nor the documents produced by him including the settlements have been disputed by the Union. He also submitted that the union did not lead any evidence in the matter in spite of the opportunity given. Adv. Shri Bandodkar submitted that since this Tribunal cannot go into the issue of legality and justification of closure the reference becomes not

maintainable and hence, liable to be rejected. Adv. Shri Suhas Naik, the learned counsel for the Union, submitted on the other hand that there is no admission about the closure of the establishment of the employer. He submitted that there is no substance in the contention of the employer that the reference pre-supposes closure of the establishment. He further submitted that even if it is so presumed, still this Tribunal can decide the issue of legality and justification of closure.

7. It is the contention of the employer that the present reference made by the Government is not maintainable because it is an admitted fact that the establishment of the employer is closed and this Tribunal has no jurisdiction to decide whether the closure is legal and justified. The union was given ample opportunities to lead evidence in the matter but the union did not lead any evidence. The employer has led evidence by examining Dr. Arondekar who was the Medical Director of the employer. He has stated that the workers of the employer had become the members of the union in the month of August 1993 and the union submitted charter of demands on the employer. He has stated that the demands made by the union were unreasonable and after the negotiations failed, the workers started adopting non-cooperative attitude and that the establishment was closed from 15-1-94. He produced the copy of the notice of closure dated 15-1-94 (Exb. E-1) which was displayed on the notice board and the copy of which was also given to each of the workers. He has also produced the copy of the letter dated 15-1-94 along with the copy of the statement of account (Exb. E-2 colly) which was sent to each individual worker. He has stated that along with the said letter and the statement of account a cheque was enclosed to each of the worker towards payment of his dues. He has also produced the copy of the statement (Exb. E-3) made by the Labour Minister in the Assembly. In this statement it has been admitted that the establishment of the employer is closed w.e.f. 15-1-94, and it has been further stated that the Government cannot compel and force the employer to re-open the establishment and start the business. He has also produced the copy of the letter dated 17-2-94 (Exb. E-4) written by the employer to the Asst. Labour Commissioner, Vasco, informing him about the closure of the establishment. He has produced the settlements (Exb. E-7 colly) signed between the employer and the workers who had not accepted the cheques sent to them. The union did not cross examine this witness of the employer on any of the statements made by him in his deposition nor the documents produced by him were disputed. The only question which was put to him in his cross examination was as to whether the employer was maintaining the accounts and he answered to this question in the affirmative. Therefore, the deposition of the witness Dr. Arondekar has gone unchallenged.

8. From the evidence which is discussed by me above, I am of the view that the employer has succeeded in establishing that its establishment is permanently closed from 15-1-94, and the workers were duly informed about the closure and also they were paid their dues, some

directly by cheques issued to them alongwith the letter and some under the settlements (Exb.E-7), colly. The evidence on record and more particularly the statement (Exb.E-3) of the Labour Minister made in the Assembly shows that the Government was aware that the establishment of the employer was closed from 15-1-94. Therefore it is a matter of fact that the establishment of the employer is closed from 15-1-94, and this fact is established by sufficient evidence. The reference which has been made by the Government is as follows:-

"Whether the action of the management of M/s Shrimati Parvatibai Chowgule Hospital, Baina, Vasco-da-Gama, in closing down the establishment with effect from 15-1-94 is legal and justified?

If not, to what relief the workmen are entitled?"

From the wordings of the reference, it is clear that the factum of closure of the establishment w.e.f. 15-1-94 is accepted. The employer has also through evidence proved that the establishment is closed from 15-1-94. Now the question is, once the establishment is found to be closed as a matter of fact, can the Tribunal decide whether the closure is legal and justified? The answer is in the negative. The Supreme Court in the case of M/s Indian Hume Pipe Co. Ltd., v/s their workmen, reported in AIR 1968 SC-1002 has held that once the Tribunal finds that an employer has closed its factory as a matter of fact it is not concerned to go into the question as to the motive which guided him to close the factory and such a closure cannot give rise to an industrial dispute. In this case the Industrial Tribunal had held that the closure of the factory was illegal and unjustified. The Supreme Court set aside the award of the Tribunal holding that once the factory was found to be closed as a matter of fact, the Tribunal is not concerned to go into the question as to the motive which guided the employer to close the factory and such a closure cannot give rise to an industrial dispute. The above decision of the Supreme Court squarely applies to the present case. The reference made by the Government requires this Tribunal to go into the question of legality and justification of closure which is not permissible under the law as the reference itself presupposes that the establishment is closed from 15-1-94 and also the employer has succeeded in proving by oral as well as documentary evidence that the establishment is closed from 15-1-94. This being the case the reference is not maintainable and the same is liable to be rejected. I therefore, hold that the employer has succeeded in proving that the reference is bad in law and not maintainable and hence I answer the issue no. 2 in the affirmative.

9. Since it has been held by me that the reference is bad in law and not maintainable, the question of deciding the other issue or granting any relief to the workmen does not arise, and I hold so accordingly.

In the circumstances, I pass the following order.

ORDER

It is hereby held that the reference made by the Government is bad in law and not maintainable. The reference is therefore rejected.

No order as to cost.

Inform the Government accordingly.

(AJIT J. AGNI),

Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/12209

The following Award dated 20-10-1998 in Reference No. IT/55/97 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary, Labour.

Panaji, 10th December, 1998.

IN THE INDUSTRIAL TRIBUNAL

GOVERNMENT OF GOA

AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/55/97

Shri Devanand Shirodkar,
Rep. by the Secretary,
Goa Trade & Commercial Workers Union,
Velho Building, 2nd floor,
Panaji - Goa.

— Workman/Party I

V/s

M/s. Whispering Palms Beach Resort,
Candolim,
Bardez Goa.

— Employer/Party II

Workmen/Party I represented by Adv. Shri Raju Mangueshkar.

Employer/Party II represented by Adv. Shri P. J. Kamat.

Panaji, dated: 20-10-1998.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Government of Goa by order bearing No. IRM/CON-MAP/(19)/94/4309 dated 11-8-1997 referred the following dispute for adjudication to this Tribunal.

(1) "Whether the action of the management of M/s Whispering Palms Beach Resort, Candolim, Bardez-Gôa, in terminating the services of Shri Devanand Shirodkar, "Assistant Cook" w.e.f. 7-4-94 is legal and justified?

(2) If not, to what relief the workman is entitled to?"

2. On receipt of the reference, a case was registered under No. IT/55/97 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The workman/Party I (For short "Workman") filed his Statement of Claim at Exb.4. The facts of the case in brief as pleaded by the workman are that the workman joined the services of the Employer/Party II (For short "Employer") as a utility worker on probation on 16-1-1992 for a initial period of six months and his services were confirmed w.e.f. 17-7-93 by letter dated 16-7-93. That the employer elevated his services to Grade JI w.e.f. 1-1-93 and subsequently, by letter dated 19-12-93 he was promoted to higher grade w.e.f. 1-9-93. That the employer refused employment to him without any reasons from 7-4-94. That subsequently, he received a letter dated 12-5-94 from the Party II stating that his services are no more required and that the Police authorities are investigating the matter in detail. That the workman contacted the President of Goa Trade & Commercial Workers Union on 29-5-94 and informed to him regarding terminating of his services and as such, the union by letter dated 29-5-94 addressed to the General Manager of the Employer raised a dispute and the copy of the said letter was marked to the Labour Commissioner, Panaji. In the conciliation proceedings held by the Assistant Labour Commissioner, the employer failed to attend the conciliation meetings and therefore, the proceedings ended in a failure on 13-11-95. The workman contended that the employer did not give show cause notice, charge sheet to the workman nor initiated any enquiry proceedings against him and thus violated the mandatory provisions of the Industrial Disputes Act, 1947. The workman contended that the termination of his services by the employer is illegal and unjustified. He therefore, prayed that he is entitled to reinstatement with full back wages.

3. The employer filed written statement at Exb.5. The employer stated that the workman was appointed as a utility worker by letter dated 21-3-93 on probation and was confirmed by letter dated 16-11-93 and at the time when his services were terminated, his designation was Assistant Kitchen Steward. The employer stated that the workman without any authorisation and on the pretext of repairs, removed a Stereo Cassette Player and two speakers of the maruti car belonging to the employer in the first week of March 1994 and never returned the same to the employer. The employer thereafter filed a complaint with the police and the workman was taken in police custody. The employer stated that the workman was released by the police on the assurance from the workman that he would return the stereo cassette player and the two speakers to the employer. The workman did not do so till 7-4-94. The employer stated that on 17-3-94, the workman

criminally trespassed into the Accounts Office of the employer and committed theft of Rs. 5745/- and of some important files belonging to the employer. The employer stated that the post of Asst. Kitchen Steward is a post of confidence and trust and on account of his involvement in the above said case, the employer lost confidence and trust in the workman and therefore, his services were terminated for loss of confidence w.e.f. 7-4-94 by letter dated 7-4-94. The employer stated that when the letter of termination was offered to the workman by the Executive Manager in the presence of the Personnel Officer on 7-4-94 at 5.00 p.m. he refused to accept the same. The employer stated that by letter dated 7-4-94, the workman was asked to collect his dues from the Accounts department and as he did not do so, the same were sent to him by post vide letter dated 12-5-94. The employer stated that since the workman did not return the stereo cassette player and the two speakers till 12-5-97, a letter dated 13-5-97 was sent to the workman asking him to handover the said goods to the security in-charge of the employer. The employer stated that since the workman did not return the said goods as instructed, Shri Devanand Toraskar, security in-charge approached one Mr. Sudesh Tilve and recovered the said goods from the said person. The employer stated that the services of the workman were terminated for loss of confidence as the employer could not repose any confidence and trust in the workman and the action was taken in the larger interest of the hotel. The employer contended that the termination of the services of the workman is legal and justified. The workman thereafter filed Rejoinder at Exb.6 controverting the pleadings made by the employer in the written statement. On the pleadings of the parties, issues were framed at Exb.7 and thereafter, the case was fixed for the evidence of the workman. On 11-9-98, when the case was fixed for the evidence of the workman, the parties submitted that the matter is likely to be settled and prayed for time to file terms of settlement. Accordingly, on 14-10-98, the parties appeared along with their advocates and submitted that the dispute between the parties was settled. They also filed the terms of settlement dated 14-10-98 at Exb.10. The parties prayed that an Award be passed in terms of the settlement. I have gone through the terms of the settlement filed at Exb. 10. The said terms of settlement are duly signed by the parties. I am satisfied that the terms are certainly in the interest of the workman. I therefore accept the submissions made by the parties and pass the consent Award in terms of the settlement dated 14-10-98 Exb. 10.

ORDER

1. It is agreed between the parties that the Employer shall pay an amount of Rs. 50,000/- (Rupees Fifty Thousand only) to Mr. Devanand Shirodkar, workman, in full and final settlement of all his dues i.e. Compensation, gratuity etc.,
2. It is agreed between the parties that in view of the payment agreed in Clause (1) above, the workman does not press his demand for reinstatement in service with full back wages etc. as the said demand is settled by way of monetary payment.

3. It is agreed between the parties that the said amount of Rs. 50,000/- (Rupees Fifty Thousand only) shall be paid to the workman on or before 22-10-98.
4. It is agreed between the parties that the Employer shall issue a bonafide Service Certificate to the workman.
5. It is agreed and declared that the amount payable by the Employer/Company to the workman in the manner hereinabove provided for are in full and final settlement and satisfaction of all his claims for compensation for loss of office or otherwise howsoever.
6. It is agreed between the parties that the settlement shall be filed in Ref. No. IT/55/97 for Consent Award in terms above.

No order as to cost.

Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/12210

The following Award dated 30-10-1998 in Reference No. IT/70/98 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary, Labour,
Panaji, 10th December, 1998.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA

AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/70/98

Workmen

Rep. by the General Secretary,
Goa Shrameek Sangh
H. No. 88, Partgal
Canacona Goa.

— Workmen/Party I

V/s

M/s. Manik Tiles Pvt. Ltd.
Post Betim, Volant,
Bardez-Goa.

— Employer/Party II

Workmen/Party I - Absent

Employer/Party II represented by Adv. M. S. Bandodkar.

Dated: 30-10-1998.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Government of Goa by order no. IRM/CON/SG//44/95/9838 dated 23rd July, 1998 referred the following dispute for adjudication to this Tribunal.

- (1) "Whether the action of the management of M/s Manik Tiles Pvt. Limited, Canacona-Goa, in terminating the services of the following 13 workmen with effect from 7-10-95 is legal and justified?

- | | |
|---------------------------------|------------------------------|
| (1) Shri Nagraj Hadpad. | (8) Shri Mahabaleshwar Naik. |
| (2) Shri Subhash A. Velip. | (9) Shri Rajeshree Olswal |
| (3) Shri Satish Velip. | (10) Smt. Savita Naik. |
| (4) Shri Maruthi Gadekar | (11) Smt. Prasheela Dessai. |
| (5) Shri Ravikant Bandekar. | (12) Smt. Radha Naik. |
| (6) Shri Mahabaleshwar Mirashi. | (13) Smt. Mangala Naik. |
| (7) Shri Gurunath Gawade. | |

- (2) If not, to what relief the workmen are entitled to?"

2. On receipt of the reference, a case was registered under No. IT/70/98 and registered A/D notice was issued to the parties. As per the said notice, the case was fixed for filing of the Statement of Claim on behalf of the workman on 17-9-98. The notice was served on the Union, namely, the Goa Shrameek Sangh as the dispute was raised by the Union on behalf of the workmen. The said notice was duly served on the Union, but none appeared on behalf of the Union on 17-9-98. The employer/Party II (For short "Employer") was duly served with the notice and was represented by Adv. M. S. Bandodkar. Since none appeared on behalf of the Union on 17-9-98, the case was adjourned to 8-10-98 at 10.30 a.m. for filing of the statement of claim by the Union. However, on this date also, none appeared on behalf of the Union and therefore, the case was again adjourned to 22-10-98 at 10.30 a.m. and last opportunity was given to the Union to file the statement of claim on behalf of the workmen. On this date also, none appeared on behalf of the Union and consequently, no statement of claim was filed on behalf of the workmen. Adv. M. S. Bandodkar, representing the employer submitted that the employer does not want to file any statement of claim/written statement and prayed, that award be passed against the workmen as no statement of claim is filed on their behalf in spite of the opportunities given. The reference of the dispute was raised by the Union on behalf of the workmen since they challenged the action of the employer in terminating their services w.e.f. 7-10-95 and as such the union raised an industrial dispute. The Bombay High Court, Panaji Bench, in the case of V. N. S. Engg. Services V/s Industrial

Tribunal, Goa, Daman and Diu and another reported in FJR Vol. 71 at page 393 has held that there is nothing in the Industrial Disputes Act, 1947 that indicates a departure from the general rule that he who approached a Court for a relief should prove his case i.e. the obligation to lead evidence to establish an allegation, the test being that he who does not lead evidence must fail. The Bombay High Court further held that the provisions of Rule 10-B of the Industrial Disputes (Central Rules 1957) which required the party raising a dispute to file a statement of demands relating only to the issue in the order of reference for adjudication within 15 days from the receipt of the order of reference and forward copies to the opposite party involved, clearly indicates that the party who raised the industrial dispute is bound to prove the contention raised by him and Industrial Tribunal or the Labour Court would be erring in placing the burden of proof on the other party to the dispute. The same view has been taken by the Allahabad High Court in the case of V. K. Raj Industries V/s Labour Court (I) and others reported in 1981 (29) FIR 194. The High Court held that the proceedings before the Industrial Court are judicial in nature even though the Indian Evidence Act is not applicable to the proceedings before the Industrial Court, but the principles underlying the said Act are applicable. The High Court further held that it is well settled that if a party challenges the validity of an order and if no evidence is produced, the party invoking the jurisdiction must fail. The High Court further held that if the workman fails to appear or to file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the workman and he will not be entitled to any reliefs. In the present case, the dispute was raised by the Union on behalf of the workmen that their services were illegally terminated by the employer and the Government made the reference of the dispute at the instance of the Union. Therefore, applying the law laid down by the Bombay High Court and the Allahabad High Court in the above referred cases, the burden was on the Union to prove that the action of the employer in terminating the services of the workman w.e.f. 7-10-95 is illegal and unjustified. However, in spite of several opportunities given, none appeared on behalf of the Union and consequently, no statement of claim came to be filed on behalf of the workmen. It is therefore evident that the Union is not interested in proceeding further with the matter. There is no evidence/material before me to hold that the action of the employer in terminating the services of the workmen is not legal and justified. In the absence of any evidence, the reference cannot be answered in favour of the Union/Workmen. In the circumstances, I hold that the Union has failed to prove that the action of the employer in terminating the services of the workmen w.e.f. 7-10-95 is illegal and unjustified.

Hence I pass the following order:-

ORDER

It is hereby held that the action of the Employer, M/s Manik Tiles Pvt. Ltd., in terminating the services

of the 13 workmen named in the reference w.e.f. 7-10-95 is legal and justified. It is hereby further held that the workmen are not entitled to any reliefs.

No order as to costs.

Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No.CL/Pub-Awards/98/152

The following Awards dated 19-11-1998 in Reference No. IT/78/98 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary (Labour).

Panaji, 8th January, 1999.

IN THE INDUSTRIAL TRIBUNAL

GOVERNMENT OF GOA

AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

No.IT/78/98

Workmen rep. by
Gomantak Mazdoor Sangh
Ponda-Goa.

— Workmen/Party I

V/s

1. Shri Maharudra N. Kulkarni,
D3-5, Kundaim Industrial Estate,
Kundaim-Goa.

2. Shri G. P. Telang (Manager),
D3-5 Kundaim Industrial Estate,
Kundaim-Goa.

— Employer/Party II

Workman-Party I absent

Employer-Party II absent

Panaji, dated: 19-11-1998.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 1947) the Government of Goa by order dated 18th August 1998 bearing No. IRM/CON/P/(133)/

/97/10217 referred the following dispute for adjudication by this Tribunal.

- (1) "Whether the action of the management of M/s Electrical Enterprises, Kundaim-Goa, in terminating the services of three workmen, namely (1) Shri Deelip Naik, (2) Shri Ramesh Naik and (3) Shri Lingu Gawade, with effect from 10-3-97, is legal and justified?
- (2) If not, to what relief the workmen are entitled to?"

2. On receipt of the reference the case was registered under No. IT/78/98 and notice was issued to the parties requiring them to appear on 6-10-98 at 10-30 a. m. The notice to the workmen-Party I was served on Adv. Shri P. B. Devari, the Vice President of Gomantak Mazdoor Sangh by hand delivery and the employer-Party II were served by registered A/D notice. On 6-10-98 when the case was fixed for hearing none appeared on behalf of the workman/Party I and the employer-Party II was represented by one Shri Milind Amonkar. Since the workmen-Party I was absent the case was adjourned to 22-10-98 at 10-30 a.m. for filing of the statement of claim on behalf of the workmen/Party I (for short, 'Union'). On this date also i.e. on 22-10-98 none appeared on behalf of the Union as well as on behalf of the employer-Party II (for short, "Employer") and last opportunity was given to the Union for filing of the statement of claim and the case was adjourned to 6-11-98. On this date i.e. on 6-11-98 again no one appeared on behalf of the Union as well as on behalf of the employer and therefore the case was fixed for award. The reference of the dispute was made by the Government at the request of the Union since the Union challenged the action of the employer in terminating the services of workmen Shri Deelip Naik, Shri Ramesh Naik and Shri Lingu Gawade. It is a settled law that a party who challenges the legality of the order or the action taken by the employer the burden lies on that party to prove the illegality of the order or the action. The Allahabad High Court in the case of V.K. Raj Industries v/s Labour Court and others reported in 1981 (29) FLR 194 has held that the proceedings before the Industrial Court are judicial in nature even though the Indian Evidence Act is not applicable to the proceedings before the Industrial Court, but the principles underlying the said Act are applicable. The High Court has further held that it is a well settled law that if a party challenges the validity of an order, the burden lies upon him to prove the illegality of the order, and if no evidence is produced, the party invoking the jurisdiction must fail. The High Court has also held that if the workman fails to appear or to file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the workman and he would not be entitled to any relief.

The Bombay High Court, Panaji Bench, in the case of V.N.S. Engineering Services v/s Industrial Tribunal, Goa,

Daman and Diu and another reported in FJR Vol. 71 at page 393 has held that there is nothing in the Industrial Disputes Act, 1947 that indicates a departure from the general rule that he who approaches a court for a relief should prove his case i.e. the obligation to lead evidence to establish an allegation is on the party making the allegation, the test being that he who does not lead evidence must fail. The Bombay High Court further held that the provisions of Rules 10-B of the Industrial Disputes (Central Rules 1957) which requires the party raising a dispute to file a statement of demands relating only to the issue in the order of reference for adjudication within 15 days from the receipt of the order of reference and forward copies to the opposite party involved, clearly indicates that the party who raises the industrial dispute is bound to prove the contention raised by him and an Industrial Tribunal or Labour Court would be erring in placing the burden of proof on the other party to the dispute.

3. In the present case the dispute was raised by the Union that the services of the workmen were terminated illegally by the employer. Therefore applying the principles laid down by the Bombay High Court and the Allahabad High Court in the above referred cases, the burden was on the Union to prove that the action of the employer in terminating the services of the workmen w.e.f. 10-3-97 was illegal and unjustified. In spite of the opportunity given the union did not put in appearance and did not file statement of claim. From the conduct of the union it is evident that it is not interested in pursuing further with the matter. Therefore there is no material before me to hold that the action of the employer in terminating the services of the workmen is not legal and justified. In the absence of any evidence the reference cannot be answered in favour of the Union. In the circumstances, I hold that the Union has failed to prove that the action of the employer in terminating the services of the workmen from 10-3-97 is illegal and unjustified. Hence, I pass the following order.

ORDER

It is hereby held that the action of the management of M/s Electrical Enterprises, Kundaim Goa, in terminating the services of the three workmen namely Shri Deelip Naik, Shri Ramesh Naik and Shri Lingu Gawade, with effect from 10-3-97 is legal and justified. It is hereby further held that the workmen are not entitled to any relief.

No order as to costs.

Inform the Government accordingly.

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.